

ESTTA Tracking number: **ESTTA248475**

Filing date: **11/12/2008**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Tyler Perry
Granted to Date of previous extension	11/12/2008
Address	c/o Ziffren, Brittenham et al. 1800 Century Park West Los Angeles, CA 90067 UNITED STATES
Party who filed Extension of time to oppose	TylerPerry
Relationship to party who filed Extension of time to oppose	A space between Opposer's first and last names was unintentionally omitted in the filed extension request.

Correspondence information	Victor K. Sapphire, Esq. Connolly Bove Lodge & Hutz LLP 333 South Grand Ave Suite 2300 Los Angeles, CA 90071 UNITED STATES trademarks@cblh.com, vsapphire@cblh.com Phone:2137872523
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Applicant Information

Application No	77286291	Publication date	07/15/2008
Opposition Filing Date	11/12/2008	Opposition Period Ends	11/12/2008
Applicant	Edith M. Jebbinson and Novella S. Brown 3405 Spindletop Drive NW Kennesaw, GA 30144 UNITED STATES		

Goods/Services Affected by Opposition


Class 043. First Use: 2007/04/10 First Use In Commerce: 2007/04/10
All goods and services in the class are opposed, namely: Catering; Catering for the provision of food and beverages; Catering in fast-food cafeterias; Catering of food and drinks

Grounds for Opposition

Deceptiveness	Trademark Act section 2(a)
False suggestion of a connection	Trademark Act section 2(a)
Priority and likelihood of confusion	Trademark Act section 2(d)

Dilution	Trademark Act section 43(c)
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Marks Cited by Opposer as Basis for Opposition

U.S. Application No.	77005461	Application Date	09/22/2006
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	MADEA		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 009. First use: Eyewear, namely, eyeglasses, sunglasses; prepaid magnetically encoded telephone calling cards, prerecorded audio and video discs and tapes featuring non-musical dramatic comedy performances; blank magnetic data carriers; blank optical recording discs; video and computer game cartridges; coin operated and non coin operated video output game machines for use with televisions</p> <p>Class 016. First use: Paper and paper articles, namely, table cloths of paper, posters; publications, namely, magazines, newsletters and bulletins in the field of television and filmed entertainment; coloring books, fan magazines, namely, magazines for fans in the field of television, film, comedy, drama and theatrical entertainment; temporary tattoos; trading cards and paper badges</p> <p>Class 025. First use: Men's and women's clothing, namely, shirts, shorts, jeans, jackets, skirts, slacks, blouses, dresses, vests, coats, sweaters, scarves, swimsuits, underwear, underpants, slips, camisoles, bras, nightgowns, robes; infants' and children's clothing, namely, t-shirts, sweaters, long sleeved shirts, shorts, pants, jumpers, jumpsuits, overalls, one-piece playsuits, pajamas, dresses, skirts; men's, women's, children's and infant's headgear, namely, hats, caps and visors; belts; all of the foregoing associated with a fictional character created and portrayed by the well-known entertainer Tyler Perry</p> <p>Class 026. First use: Ornamental novelty buttons and pins</p> <p>Class 028. First use: Games, playthings and sporting goods, namely, action figures and accessories therefor; stuffed toy animals; baby's multiple activity toys; toy bakeware and cookware; balloons; toy banks; bath toys; bathtub toys; inflatable bath toys; ride-on toys; inflatable ride-on toys, equipment sold as a unit for playing card games; toy cars; dolls, beanbag dolls; paper dolls, rag dolls, soft sculpture dolls, doll accessories and playsets therefor, namely doll cases, doll clothing; doll house furnishings, doll costumes; stuffed toys; checker sets; chess sets; children's play</p>		

	<p>cosmetics; child's multiple activity toys; toy construction blocks; infant's action crib toys; flying discs; electronic hand held game units; electronic game equipment with a watch function; electronically operated toy motor vehicles; board games and game equipment sold as a unit for playing board games; card games; manipulative games; parlor games; role-playing games; stand-alone video parlor computer game machines; action type target games; rocking horses; jigsaw puzzles; kites; manipulative puzzles; paper face masks; toy model train sets; toy model vehicles and related accessories sold as a unit; electronically operated toy motor vehicles; electronic battery operated toys; toy magic tricks, noisemakers; toy whistles; party favors in the nature of small toys; toy cap pistols; plush toys; soft sculpture plush toys; manipulative puzzles, namely, three dimensional cube type puzzles; toy record player for playing tunes and cassettes and discs therefor; skateboards; ice skates; toy roller skates; toy in-line skates and accessories, namely, knee, wrist, and elbow pads; water squirting toys; teddy bears; wind up walking toys; wind up toys, non-motorized non-electric mobile self-propelled non-riding transportation toys; ride-on toys; toy trucks; twirling batons; toy zip guns; gymnastic apparatus; balls, namely, playground balls, soccer balls, sportballs, baseballs, basketballs and foam balls; baseball gloves; swimming aids, namely, swimming floats for recreational use; inflatable swimming pools for recreational use; kickboard floatation devices for recreational use; gymnastic parallel bars; skis; snow skis; snowboards; skipping ropes; jump ropes; snow sleds for recreational use; surf fins; surfboards; swim boards for recreational use; bodyboards; swim fins; inflatable and buoyant bath toys; swimming and ride on toys; musical toys; latex squeeze toys; exercise equipment, namely, stationery bikes, treadmills, stair stepping machines; exercise equipment, namely, weight lifting machines, and free weights; and non-illuminating Christmas tree ornaments; playing cards; coin operated and non coin operated stand-alone video output game machines</p> <p>Class 038. First use: Transmission of sound and picture images</p> <p>Class 041. First use: Entertainment services, namely, arranging and conducting live dramatic and comedy performances; producing television program and motion picture films featuring dramatic and comedy performances; television and motion picture film production services</p>
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U.S. Application No.	77506016	Application Date	06/23/2008
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	FREE MADEA		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 041. First use:		

	ENTERTAINMENT SERVICES; GAMES; PLAYTHINGS; GYMNASTIC AND SPORTING ARTICLES; DECORATIONS; CLOTHING; FOOTWEAR; HEADWEAR; BUTTONS; PINS; PAPER GOODS; PRINTED MATERIALS; BOOKS; STATIONERY; RUBBER STAMPS; DECALS; TRANSMISSION OR REPRODUCTION OF SOUND IMAGES; MAGNETIC DATA CARRIERS; APPARATUS FOR RECORDING, TRANSMISSION OR REPRODUCTION OF SOUND OR IMAGES; RECORDING DISCS; AUDIO AND VISUAL RECORDINGS; PRERECORDED AUDIO AND VISUAL DISCS, TAPES AND OTHER RECORDABLE MEDIA; MOTION PICTURES; TELEVISION SHOWS; LIVE PERFORMANCES; EYEWEAR; PREPAID MAGNETICALLY ENCODED CALLING CARDS; JEWELRY; KEY CHAINS; WATCHES; LEATHER AND IMITATION LEATHER GOODS; BAGS; WALLETS; PURSES; BELTS; HOUSEHOLD OR KITCHEN UTENSILS AND CONTAINERS; GLASSWARE; DISHES; PLATES; CUPS; MUGS; SHOT GLASSES; FRAGRANCES; SOAPS; ESSENTIAL OILS; COSMETICS; BODY AND HAIR LOTIONS AND OILS; BATH GEL; HAIR PREPARATIONS
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Attachments	77005461#TMSN.jpeg (1 page)(bytes) 77506016#TMSN.jpeg (1 page)(bytes) MADEAS SECRETS OPPO.pdf (4 pages)(645624 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/victor sapphire/
Name	Victor K. Sapphire, Esq.
Date	11/12/2008

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Tyler Perry

Opposer,

v.

Edith M Jebbinson and Novella S. Brown

Applicants

Opposition No. _____

Application Serial No. 77/286,291

Mark: MADEA'S SECRETS

Published for Opposition:

July 15, 2008

NOTICE OF OPPOSITION

Commissioner for Trademarks
PO Box 1451
Alexandria, VA 22313-1451

Opposer Tyler Perry ("Perry"), an individual having a business address c/o Ziffren, Brittenham et al., 1800 Century Park West, Los Angeles, California 90067, believes that he will be damaged by the registration on the Principal Register of MADEA'S SECRETS in connection with "catering; catering for the provision of food and beverages; catering in fast-food cafeterias; catering of food and drinks" in International Class 43. The mark MADEA'S SECRETS is the subject of federal trademark application Serial No. 77/286,291 allegedly owned by Edith M. Jebbinson and Novella S. Brown (collectively, "Applicants"), and Opposer hereby opposes registration thereof.

As grounds for this Opposition, it is alleged that:

1. Opposer Tyler Perry is the owner of record of federal trademark Application Serial No. 77/005,461 for the mark MADEA, as well as of the business and goodwill connected therewith.
2. Opposer Tyler Perry is the owner of record of federal trademark Application Serial No. 77/506,016 for the mark FREE MADEA.
3. Opposer is an entertainer and producer whose acting, directing and production work in theatre, television and film has earned him tremendous renown and accolades the world over. Opposer has been performing and creating theatrical, film and television productions since 1992.
4. On information and belief, Applicants are individuals with a principal address of 3405 Spindletop Drive NW, Kennesaw, Georgia, 30144.
5. On information and belief, Applicants are the joint owners of record of trademark application Serial No. 77/286,291 for registration of MADEA'S SECRETS for use in connection with "catering; catering for the provision of food and beverages; catering in fast-food cafeterias; catering of food and drinks" in International Class 43 ("Applicants' services").
6. Applicants filed their application Serial No. 77/286,291 on September 21, 2007.
7. Since at least as early as 1999, and long prior to September 21, 2007, the filing date of Applicants' application, Opposer has used the MADEA mark in connection with entertainment services. Opposer created the fictional character "Madea", who has been the subject of and/or has appeared in wide-released feature films, television series, and stage plays, including "Madea's Family Reunion", "Madea's Class Reunion", "Meet the Browns", "Diary of a Mad Black Woman", "Madea Goes to Jail", "I Can Do Bad All By Myself" and "Tyler Perry's House of Payne", among others. Opposer's films featuring the MADEA character were released nationwide and internationally and are available nation- and worldwide on DVD, and Opposer's television series featuring MADEA have been and are being aired nationally on broadcast and cable television and in syndication.
8. Opposer has developed considerable fame and goodwill in the MADEA name and mark. In 2005, the film "Diary of a Mad Black Woman", which featured Opposer's

MADEA as its main character, opened at #1 in the United States nationwide box office rankings. The DVD release of the film sold nearly 2.5 million copies in its first week of release alone.

9. Opposer's and Opposer's company's productions featuring Mr. Perry's Madea character have become staples of broadcast and cable television. The success of Opposer's commercial exploitation of MADEA has made MADEA one of the most famous characters of the modern era in dramatic entertainment in the film, television and theatrical media.

10. The MADEA'S SECRETS mark so resembles Opposer's MADEA mark as to be likely, when used in connection with Applicants' services, as to cause confusion, mistake, or deception. The only difference between Applicants' MADEA'S SECRETS mark and Opposer's MADEA mark is the addition of the possessive "'S" and the term "SECRETS", resulting in a mark whose overall appearance strongly calls to mind Opposer's mark. Thus, consumers will likely believe that Applicants' use of the MADEA'S SECRETS mark in connection with food services and recipe books -- the types of goods and services one would associate with a character like Opposer's MADEA -- is in some way associated with or connected with or sponsored, authorized or warranted by Opposer. Any objection or fault with Applicants' services offered in connection with the MADEA'S SECRETS mark would reflect upon and seriously injure Opposer's reputation in connection with goods and services offered under the MADEA mark.

11. Applicants' MADEA'S SECRETS mark so resembles the MADEA mark as to be likely, when used in connection with Applicants' services, as to cause dilution of Opposer's mark.

12. If Applicant is granted the registration herein opposed, Applicant would thereby obtain at least a *prima facie* exclusive right to use of the MADEA'S SECRETS mark in connection with the services identified in Application Serial No. 77/286,291. Such registration would be a source of damage and injury to Opposer.

WHEREFORE, in accordance with Section 13 of the Trademark Act (15 U.S.C. Section 1063), Opposer prays that this Opposition be sustained and that Application Serial No. 77/286,291 be refused.

The required fee of three hundred dollars (\$300) is submitted herewith.

Respectfully submitted,

Dated: November 12/2008

By: 
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